that Ms. Dismukes did not review the cost bases for such prices. Moreover, the LPSC adopted those prices as permanent prices for Louisiana despite the fact that BellSouth expressly represented that they were interim prices subject to true up. See Varner Reb. Test. (Tab 265/2) at 13-14.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on November 21, 1997

Gregory R Follensbee

Gregory R. Follensbee

SUBSCRIBED AND SWORN TO BEFORE ME THIS 21st DAY OF NOVEMBER, 1997.

Sheila C. Colbert

Notary Public

My Commission Expires:

Notary Public Gwinnett County, Georgia
My Commission Expires March 14th, 1999

H

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544

In the Matter of	)	
	)	
Application by BellSouth Corporation,	)	**CC Docket**
BellSouth Telecommunications, Inc.,	)	**No. 97-231**
And BellSouth Long Distance, Inc. for	)	
Provision of In-region, InterLATA	)	
Services in Louisiana	)	

AFFIDAVIT

OF

R. GLENN HUBBARD

AND

WILLIAM H. LEHR

ON BEHALF OF

AT&T CORP.

AT&T EXHIBIT H

FCC DOCKET CC NO. 97-231
AFFIDAVIT OF R. GLENN HUBBARD AND WILLIAM H. LEHR

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by BellSouth Corporation,	)	**CC Docket**
BellSouth Telecommunications, Inc., and	)	**No. 97-231**
BellSouth Long Distance, Inc. for	)	
Provision of In-region, InterLATA	)	
Services in Louisiana	)	

AFFIDAVIT
OF

R. GLENN HUBBARD AND WILLIAM H. LEHR
ON BEHALF OF AT&T CORP.

R. Glenn Hubbard and William H. Lehr do hereby depose and state as follows:

0. STATEMENTS OF QUALIFICATION

R. GLENN HUBBARD

1. My name is R. Glenn Hubbard. My business address is 3022 Broadway, 609 Uris Hall, New York, New York 10027.

2. I hold the Russell L. Carson Professorship in Economics and Finance at Columbia University. During the 1997-1998 academic year, I am a visiting professor at the Harvard Business School. At the National Bureau of Economic Research, I am a research associate in programs on corporate finance, public economics, industrial organization, monetary economics, and economic fluctuations. I am also a visiting scholar at the American Enterprise Institute, where I direct the Program on Tax Policy Research, and an advisor to the president of the Federal Reserve Bank of New York. Prior to joining the

Columbia faculty as professor of economics and finance in 1988, I taught in the economics department of Northwestern University. I have also served as John M. Olin Visiting Professor at the University of Chicago, Visiting Professor and Research Fellow of the Energy and Environmental Policy Center at the John F. Kennedy School of Government, and John M. Olin Fellow at the National Bureau of Economic Research. My A.M. and Ph.D. degrees in economics are from Harvard University, and my B.A. and B.S. degrees are from the University of Central Florida, *summa cum laude*.

3. My professional work has centered on problems in public economics, industrial organization, natural resource economics, and monetary economics. I have authored more than eighty journal articles, edited a number of books, and authored a leading textbook in money and financial markets. I have served on the editorial boards of journals specializing in industrial economics. I have been an advisor or consultant to the Board of Governors of the Federal Reserve System, Congressional Budget Office, Federal Reserve Bank of New York, Internal Revenue Service, International Trade Commission, U.S. Department of Energy, and U.S. Department of the Treasury. In 1991-1993, I served as Deputy Assistant Secretary (Tax Analysis) of the U.S. Treasury Department where I was responsible for economic analysis of tax policy, the administration's revenue estimates, and health care policy issues. I have prepared analysis for and testified in many telecommunications regulatory proceedings. My curriculum vitae is attached as Attachment 1 with more biographical details and a listing of my writings.

WILLIAM H. LEHR

4. My name is William H. Lehr. My business address is 94 Hubbard Street, Concord, MA 01742.

5. I am an associate research professor of finance and economics at the Graduate School of Business of Columbia University. Prior to joining the Columbia faculty in 1991, I received my Ph.D. in economics from Stanford University. My M.B.A. (Wharton), M.S.E. (chemical engineering), B.S. (chemical engineering, *cum laude*), and B.A. (European history, *magna cum laude*) degrees are from the University of Pennsylvania. I have significant professional experience in the telecommunications industry through positions at consulting firms and at MCI.

6. My research focuses on issues in telecommunications economics and policy. I have authored a number of professional articles on standard setting and networks. My *curriculum vitae* is attached as Attachment 2.

I. INTRODUCTION

7. The principal goal of the Telecommunications Act of 1996 (the Act)[1] is to promote effective competition in all telecommunications services as the surest path to delivering benefits to consumers. The Act describes provisions under which Bell Operating Companies (BOCs), including BellSouth Corporation (BellSouth), will be permitted to offer interLATA services. The Act specifies that the Federal Communications Commission (FCC) should not approve a request for entry into the long distance market unless it determines, among other things, that the request is "consistent with the public interest, convenience, and necessity."[2] In this affidavit, we demonstrate that granting authority for BellSouth to offer in-region, interLATA services in Louisiana at the present time would be inconsistent with the public interest.

8. The public interest will be advanced if entry by BellSouth improves the welfare of consumers by making long distance, local exchange, and other telecommunications markets more competitive.[3] Competition benefits consumers -- and thereby advances the

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[1] TELECOMMUNICATIONS ACT OF 1996, PUB. L. NO. 104-104, 110 STAT. 56 (1996).

TELECOMMUNICATIONS ACT OF 1996, at § 271(d)(3)(c), note 1, *supra*.

[3] The Department of Justice has also concluded that an assessment of actual local competition is critical for determining whether granting interLATA relief is consistent with the public interest. In a related proceeding, the Department of Justice concluded:

"In evaluating whether the necessary market-opening steps have been accomplished, the public interest -- through lower prices, improved service quality, and expanded customer choice. Entry by a BOC, such as BellSouth, into interLATA services must be viewed within the larger context of its likely effect on the competitive process and consumer well-being in all telecommunications markets.

9. Today, there is effective competition in long distance markets and virtually no competition in local exchange markets.[4] Partial realization of the competitive goal (*i.e.,* in long distance) depended on the separation of these two markets mandated by regulation. While the emergence of effective local service competition will eventually eliminate the need for continuing mandated separation, it is not appropriate at this time to permit the BOCs to participate in the market for interLATA services. At this early stage -- before the success of the provisions embodied in Section 251 of the Act is assured -- entry by the BOCs into interLATA services would threaten the competitive process in *both* long distance and local services. To ensure that entry of a BOC, such as BellSouth into interLATA services does not impede competition, it is important to consider the economics of local and long distance

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Department will look, first and foremost, to the nature and extent of actual local competition." See *In the Matter of Application of SBC Communications Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma*, Evaluation of the United States Department Of Justice, page 43, CC Docket No. 97-121, May 16, 1997.

[4] A recent industry study by the Yankee Group concludes that "while most consumers would be happy to have a choice when it comes to local phone service . . . less than half of 1% of U.S. households have yet to experience the benefits of telecom reform." See "Yankee Group Study Finds Residential Local Phone Competition - Still on Hold," press release (May 22, 1997).

markets -- their current conditions, differences, and relationship. In this affidavit, we present this analysis, explain the economic principles which should guide application of Section 271 of the Act, and respond to claims raised in this proceeding by BellSouth's economic witnesses, including Jerry A. Hausman,[5] Richard L. Schmalensee,[6] Richard J. Gilbert,[7] D. John Roberts,[8] Aniruddha Banerjee,[9] William C. Denk,[10] and a report by the WEFA

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[5] *Affidavit of Professor Jerry A. Hausman on Behalf of BellSouth*, in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in South Carolina, Before the Federal Communications Commission (October 1997), refiled in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in Louisiana, Before the Federal Communications Commission (November 1997).

[6] *Affidavit of Professor Richard L. Schmalensee on Behalf of BellSouth*, in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in South Carolina, Before the Federal Communications Commission (October 1997), refiled in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in Louisiana, Before the Federal Communications Commission (November 1997).

[7] *Affidavit of Professor Richard J. Gilbert on Behalf of BellSouth*, in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in Louisiana, Before the Federal Communications Commission (November 1997).

[8] *Affidavit of Professor D. John Roberts on Behalf of BellSouth*, in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in South Carolina, Before the Federal Communications Commission (October 1997), refiled in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in Louisiana, Before the Federal Communications Commission (November 1997).

Group[11].

10. We organize the remaining discussion into eight major sections. In Section II, we interpret Section 271 within the larger context of the Act, its goals, and relationship to the public interest. Section III reviews the current status of competition in long distance and local exchange services. Section IV assesses the costs and benefits of potential BOC entry into long distance services. In Sections V and VI, we respond to the arguments raised by Jerry A. Hausman, Richard L. Schmalensee, Richard D. Gilbert, and D. John Roberts. In Section VII, we respond to a study prepared by the WEFA Group that attempts to estimate the economic benefits of BellSouth's in-region, interLATA entry. Section VIII concludes.

11. To anticipate, we reach the following eight conclusions:

i. Long distance markets are effectively competitive today. An analysis of market shares, pricing trends, patterns of entry, marketing and product introduction strategies, and customer behavior demonstrate the existence of vigorous competition which has delivered significant benefits to consumers in the form of lower prices and

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[9] *Affidavit of Aniruddha Banerjee on Behalf of BellSouth*, in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in Louisiana, Before the Federal Communications Commission (November 1997).

[10] *Affidavit of William C. Denk on Behalf of BellSouth*, in the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in Louisiana, Before the Federal Communications Commission (November 1997).

[11] The WEFA Group, *The Economic Impact of BellSouth's Entry into the interLATA Long Distance Markets in Louisiana* (March 1997).

improved quality and choice of services.

ii. Local exchange markets remain dominated by monopoly BOCs, such as BellSouth, in marked contrast to conditions readily observed in long distance services. Competitive entry by Competitive Local Exchange Carriers (CLECs) and Competitive Access Providers (CAPs) is limited; and, contrary to BOC arguments, predictions of significant facilities-based entry from wireless or cable TV carriers still rest on unproved technologies. In particular, PCS wireless services are not a viable substitute for wireline services in today's marketplace. The only significant near-term hope for local competition is from entrants relying heavily on the opportunities to resell BOC wholesale services and lease unbundled network elements (UNEs) that are provided under Section 251 of the Act. BellSouth has foreclosed entry by resale or access to UNEs by its clear failures to comply with the requirements of Section 251.

iii. BellSouth's entry into interLATA services will not enhance the performance of long distance markets because these markets are already effectively competitive. Rather, it will threaten competition in both long distance and local exchange markets. The BOCs' incentives and opportunities to engage in anticompetitive behavior and to extend their market power over local exchange services, long distance services and other telecommunications services will be enhanced if they are allowed to compete in interLATA services at this time.[12]

iv. BellSouth's entry into long distance services is not warranted on efficiency grounds. Relaxation of the entry restriction in the near term will not further deregulatory goals, but will force regulators to adopt less effective and more cumbersome mechanisms to attempt to safeguard the competitive process from anticompetitive behavior by BellSouth.

v. Professor Hausman argues that Bell Operating Company (BOC) entry into long distance services will result in significant reductions in long-run long distance prices, while there is little room for similar benefits to be realized from local competition. His analysis rests on the unsupported and erroneous contention that local prices approximate long-run average costs because regulation has been almost perfectly

[12] Professor Marius Schwartz concurs with this assessment in his discussion in a related proceeding of why it is not appropriate to grant interLATA relief to Southwestern Bell Telephone at this time:

> "Authorizing premature BOC entry would prematurely reduce a BOC's cooperation incentives for two main reasons: (a) the BOC stands to gain if it can leverage its local market power into the newly opened markets for long-distance and integrated services; and (b) the BOC is emboldened to stiffen its resistance to local competition having secured its coveted long-distance authority."

See *Affidavit of Marius Schwartz, Competitive Implications of Bell Operating Company Entry into Long-Distance Telecommunications Services,* submitted on behalf of the Department of Justice, *In the Matter of Application of SBC Communications Inc. et al. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Oklahoma*, ¶ 9, CC Docket No. 97-121, May 16, 1997.

effective, while long distance prices are significantly above economic costs. He does not support these arguments with structural or empirical analysis of competition in either market. While Professors Hausman and Gilbert both correctly note the appeal to consumers and carriers of being able to offer "one-stop" shopping services, they fail to note that this option is only attractive if consumers are allowed to choose among multiple sources of supply for their one-stop offers and that currently there is no effective alternative for obtaining local services in Louisiana other than from BellSouth.

vi. Professor Schmalensee argues incorrectly that long distance prices are inadequately competitive, alleging that prices have failed to adequately reflect reduction in access charges and that margins in long distance remain excessive. On closer inspection, it is clear that both of these conclusions are wrong and inconsistent with appropriate data. Furthermore, while we agree with Professor Schmalensee that BellSouth would be a strong competitor in interexchange services, we recognize that BellSouth's ability to compete relies on its unique position as the monopoly provider of local services. BellSouth's ability to succeed in long distance competition is not the relevant question. It is more important to consider the negative impact that premature entry into interLATA services would have on prospects for promoting local competition.

vii. The WEFA analysis merely demonstrates the importance of telecommunications services to the economy of Louisiana -- both local and long distance. The results are based on faulty and inadequately substantiated assumptions contrasting the base case to the scenario in which BellSouth enters long distance service. The analysis ignores the negative impact on local competition (and hence local and long distance prices) of permitting premature entry by BellSouth and fails to adequately explain why all of the benefits assumed in their alternate scenario should be uniquely assigned to the entry of BellSouth.

viii. The best policy is to deny interLATA relief for BellSouth until effective competition emerges in local exchange markets.

II. PUBLIC INTEREST GOALS OF SECTION 271

12. The principal goal of the Act is to promote competition in *all* telecommunications services in order to afford consumers the benefits of competition (*i.e.,* lower prices, improved quality, and greater choice). This requires a substantial shift in the regulatory paradigm. With the emergence of effective competition, market forces will increasingly replace direct regulatory oversight as the guarantors of consumers' well-being and the health of the telecommunications sector of the economy.

13. When the forces of competition are fully effective, regulatory intervention is unnecessary. In the absence of effective competition, however, complex regulatory controls

are often needed to assure that consumers' interests are protected. In such cases, it is common to restrict the regulated firm's participation in unregulated, competitive markets in order to prevent the firm from either harming the competitive process in other markets or circumventing regulations in its home market.

14. The restriction on BOC participation in interLATA markets addressed by Section 271 of the Act originated in the Modification of Final Judgment (MFJ), which governed the divestiture of the former Bell System into a long distance company (AT&T), which would face competition, and into the seven Regional Bell Operating Companies (RBOCs), which would be regulated as local monopolists.

15. While the MFJ achieved its goal of establishing vigorous and sustainable competition in long distance markets by the end of the 1980s, local exchange markets have remained monopolized by the BOCs. Despite this fact, the BOCs have lobbied in judicial, legislative, and regulatory arenas for freedom to enter interLATA markets since almost immediately after divestiture.[13]

16. The Act provides the "pro-competitive, de-regulatory national policy framework" for "opening all telecommunications markets to competition."[14] The Act includes a number of provisions which address the requirements of effecting the transition

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[13] In 1994, four RBOCs -- Bell Atlantic, BellSouth, SBC and NYNEX -- filed a motion to vacate the MFJ. Before the hearing on the RBOCs' motion was held, the issues addressed by the motion were resolved by the Telecommunications Act of 1996.

[14] See Telecommunications Act of 1996, Conference Report, 104th Congress, 2nd Session, Report 104-458, January 31, 1996, page 1.

from strong, interventionist regulatory oversight to increased reliance on market forces. Introducing competition to local exchange services is the biggest challenge which regulatory policymakers must confront. Section 251 of the Act sets forth the policies and requirements which are necessary if local exchange competition is to emerge. These include requiring that the incumbent local exchange carriers (ILECs), including BellSouth, make available to entrants essential monopoly inputs (*i.e.,* unbundled network elements, interconnection, and wholesale services) at reasonable, cost-based prices.

17. The Act recognizes that the ILECs have little incentive to cooperate in a process that is intended to reduce their monopoly control over local exchange services, and so implementing these provisions is going to be quite difficult. To protect the competitive process during the transition, the Act includes a number of special provisions which apply to the BOCs and are intended to limit their ability to exploit their market power. Section 271 identifies the preconditions and requirements which must be satisfied before the FCC may approve a BOC's application to compete in interLATA services. These include a public interest test, a requirement that there exist a facilities-based local exchange competitor, and a competitive checklist that is intended to assure successful implementation of the policies required by Section 251 *before* the restriction against competing in interLATA services is removed.[15]

18. The provisions of Section 271 identify the circumstances under which the BOC

[15] See Section 271 of the TELECOMMUNICATIONS ACT of 1996, note 1, *supra.*

entry restriction will become unnecessary. To eliminate this restriction prematurely would at a minimum necessitate an increase in alternative regulatory mechanisms to attempt to safeguard against anticompetitive behavior by the BOC.[16] Moreover, these alternatives are less effective at protecting competition and are more cumbersome to implement. In fact, removal of this form of regulation would necessitate an overall *increase* in the regulatory burden, while at the same time diminishing its effectiveness in preventing anticompetitive conduct.

19. Removal of the restriction against BOC entry into interLATA services prior to the emergence of effective local exchange competition would be anticompetitive because it would raise entry barriers in local exchange services, would adversely affect those carriers who have already entered local markets (albeit on a small scale), and would threaten interLATA competition. Therefore delaying entry of the BOCs into interLATA services until the emergence of effective local exchange competition is the surest way to realize the pro-competitive goals of the Act. Because such competition does not exist today, and because the nondiscriminatory unbundling, interconnection and resale provisions of Section 251 have not yet been implemented successfully[17] as required by Section 271, it would be premature to permit the BOCs to enter interLATA services at this time.

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[16] We discuss these mechanisms in detail in Section IV, *infra*.

[17] Non-trivial market experience (*i.e.*, in which entrants have actually used UNEs and resale opportunities to offer competing local exchange services) will be required before one can be assured that the Section 251 provisions have been successfully implemented.

III. STATE OF COMPETITION IN LONG DISTANCE AND LOCAL EXCHANGE MARKETS

20. In the following two subsections, we examine empirical evidence regarding the current effectiveness of competition in long distance and local exchange services. This analysis demonstrates that, by *every* empirical measure, long distance services are effectively competitive today, while local services remain a monopoly. Moreover, because local services (*e.g.*, local access) are an essential input to long distance services, the state of competition in local services has a direct effect on the costs -- and therefore prices -- of long distance services.

21. This empirical assessment of market structure and performance leads us to anticipate significantly larger gains for consumers from the success of local competition than from further entry into long distance services.[18] Elementary economics teaches us that competitive markets are generally efficient because prices approximate economic costs and

[18] This conclusion is shared by Professor Marius Schwartz in his recent response to the contrary arguments of BOC economic witnesses:

> "[T]here is much more room to improve economic performance in the local market than in the interLATA market by fostering additional competition . . . . [E]ven a modest dose of increased competition in the local market can be expected to generate major benefits -- in the form of reduced costs, improved quality, increased variety of offerings, rationalization of the price structure in local markets, as well as spillover benefits in adjacent markets for interexchange and integrated services."

Supplemental Affidavit of Marius Schwartz on Behalf of the U.S. Department of Justice, In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in South Carolina, ¶ 18, CC Docket No. 97-208, November 4, 1997.

firms are forced to adopt efficient, cost-minimizing technologies in order to survive. While additional entry into a competitive market demonstrates its health -- and the absence of entry barriers -- it is not expected to have a significant impact on either prices or costs (because costs and prices already approximate economic costs). In contrast, monopoly markets are typically not efficient. The monopolist is able to set prices above costs and offer consumers inferior quality goods or services. The monopolist is also unlikely to be minimizing costs.[19] Therefore introducing competition to a monopoly market such as local services is likely to result in significant efficiency gains and price declines.

A. Competition in Long Distance Markets

22. The market for long distance services demonstrates vigorous and effective competition.[20] Realization of this beneficial state has taken many years. Prior to the

[19] While direct regulatory oversight helps mitigate these effects -- especially with respect to restraining the monopolist's ability to earn surplus profits by setting prices significantly above costs -- direct regulation is imperfect and inefficient.

[20] For further discussion of the state of long distance competition, see B. Douglas Bernheim and Robert D. Willig, *The Scope of Competition in Telecommunications*, AEI Studies in Telecommunications Regulation, Washington DC: American Enterprise Institute, 1997, forthcoming; David L. Kaserman and John W. Mayo "Competition and Asymmetric Regulation in Long-Distance Telecommunications: An Assessment of the Evidence," *CommLaw Conspectus*, Vol. 4, Winter 1996, pages 1-26; Declaration of R. Glenn Hubbard and William H. Lehr, in *United States of America v. Western Electric Company and American Telephone and Telegraph Company*, U.S.D.C., Civil Action No. 82-0192, November 1994; Ingo Vogelsang and Bridget M. Mitchell, *Telecommunications Competition: The Last Ten Miles*, Cambridge: MIT Press (for the American Enterprise Institute, 1997); Long Distance Market Shares Fourth Quarter 1996, FCC Common Carrier Bureau, Industry Analysis Division, released March 1997; *True Competition in the Long-Distance Market*, MCI Communications Corporation, white paper, January 27, 1997.

divestiture of the Bell System in 1984, most consumers were served by a single, integrated provider of local and long distance services. For over a decade prior to this date, the technology had existed to facilitate competition in long distance services, yet the Bell System's dominance over local services and preferential access to essential interconnection and local access facilities severely hampered the development of long distance competition. Similar problems were faced by potential competitors in the markets for telecommunications network equipment and customer premises equipment.

23. The principal goal of the MFJ, which effected the divestiture of the Bell System, was the mitigation of the potential for anticompetitive practices by isolating monopoly "bottleneck" facilities from complementary competitive (or potentially competitive) services. Hence the MFJ required the divestiture of the local telephone companies, which held the bottleneck facilities (*e.g.*, such local network elements as switches, loops, and local transport facilities). The local telephone companies reorganized as the BOCs were proscribed, *inter alia*, from providing interLATA services.

24. The BOCs were required to enable the provision of equal access to allow consumers to select freely among alternative long distance providers and to interconnect with those carriers over equivalent-quality connections. Equal access enabled "dial-1" access to carriers other than AT&T. While these new facilities were being deployed, the other common carriers (OCCs) were provided a discount relative to the local access fees paid by AT&T to compensate the OCCs' customers for the inferior quality access services they were

provided.[21] The BOCs had a strong incentive to encourage increased competition in long distance services because this would stimulate demand for the BOCs' access services.

25. The FCC continued to regulate AT&T as a dominant carrier to assure that it did not use any residual market power to hinder the development of robust competition in long distance services. As we discuss more fully below, this process ended with the reclassification of AT&T as a non-dominant carrier in November 1995. Today, and for the past several years, we have had extensive competition among a diverse array of facilities-based and non-facilities-based national and regional long distance competitors, offering a diverse array of both wholesale and retail services.

26. There is ample empirical evidence of the extent of competition in long distance services and of the significant benefits realized by consumers as a consequence. *First*, the history and patterns of entry into this industry demonstrate the absence of significant entry barriers and the presence of diverse and widespread choices for consumers. *Second*, patterns

[21] Successful implementation of the "equal access" provisions took several years. The share of access lines which were converted to support equal access varied as follows (see Federal Communications Commission, *Statistics of Communications Common Carriers*, 1995/1996 Edition, Table 8.8):

	% Equal Access
December 1984	3.1
December 1985	39.6
December 1986	63.3
December 1987	75.9
December 1988	83.0
December 1989	86.2
December 1995	98.9

and trends in market shares indicate that the competitive process is dynamically vigorous. *Third*, the broad and extensive declines in long distance prices provide a direct indication of consumer benefits. *Fourth*, the nature of competition as indicated by the marketing and advertising programs used by long distance demonstrates the vibrancy and aggressiveness of competition and the frequency with which this competition is price-based. *Fifth*, the structure of the industry with competitive wholesale markets for bulk transport services guarantees that entry remains free and the long distance market is competitive. *Sixth*, the behavior of customers, as evidenced by the extent of customer churn, demonstrates that consumers understand that they have competitive choices and are asserting their sovereignty to freely choose among multiple carriers. *Seventh*, and finally, the financial performance of long distance carriers indicates that they are earning no more than a competitive return.[22]

1. Entry patterns demonstrate the absence of significant entry barriers.

27. Evidence of vigorous entry into (and exit from) an industry demonstrates the absence of significant entry barriers, which is a necessary precondition for effective competition.[23] Today, there are over 850 firms competing in markets for long distance

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[22] See *Declaration of R. Glenn Hubbard and William H. Lehr*, note 20, *supra*.

[23] A 1996 study by Simran Kahai, David Kaserman, and John Mayo of the state of long distance competition rejected the hypothesis that AT&T possesses market power and estimated a supply elasticity for fringe firms of 4.38 -- suggesting a large supply response by smaller fringe firms to a price change. See Simran Kahai, David Kaserman, and John Mayo, "Is the